

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

NANCY L. JOHNSON,

Plaintiff

v.

Civil Action No. _____
Tazewell Circuit Court Case No. CL21-291

LOWE'S HOME CENTERS, LLC,

Defendant.

NOTICE OF REMOVAL

Lowe's Home Centers, LLC ("Lowe's"), by counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby files this Notice of Removal on the following grounds:

1. Plaintiff Nancy Johnson filed a Complaint in the Circuit Court of Tazewell County on February 19, 2021, alleging a personal injury claim against Lowe's for injuries from an incident on July 27, 2019, at a Lowe's store located in Pounding Mill, Virginia. Plaintiff filed suit for \$75,000.
2. Lowe's registered agent was served with copies of the Summons and Complaint on March 3, 2021. The Summons and Complaint that Plaintiff served are attached collectively hereto as Exhibit A.
3. Lowe's timely filed an Answer to the Complaint on or about March 16, 2021, a copy of which Answer, is attached hereto as Exhibit B.
4. On August 26, 2021, Plaintiff provided a demand letter to Lowe's in which Plaintiff made a settlement demand of \$90,000.00. See Correspondence, dated August 26, 2021, which is attached as Exhibit C.

GROUND FOR REMOVAL

5. Upon information and belief, Plaintiff is a Virginia resident and is therefore a citizen of Virginia.

6. Lowe's Home Centers, LLC is a North Carolina Limited Liability Company with its principal place of business in North Carolina. The sole member of Lowe's Home Centers, LLC is Lowe's Companies, Inc., which is a North Carolina corporation with its principal place of business in North Carolina.

7. This action therefore involves a controversy wholly between citizens of different states. There is complete diversity of citizenship.

8. The amount in controversy in this action, exclusive of interest and costs, exceeds \$75,000.00 as evidenced by the following:

a. On August 26, 2021, plaintiff made a written settlement demand of \$90,000, putting Lowe's on notice that the actual amount in controversy exceeds \$75,000. (**Exhibit C**).

b. Plaintiff claims that she "sustained serious and permanent injuries, has been prevented from transacting her business, has suffered and will continue to suffer great pain of body and mind; has sustained permanent disability, deformity; has incurred and will incur in the future hospital, doctor and related bills in an effort to be cured of said injuries." Compl. ¶ 6 (**Exhibit A**).

9. This Court therefore has original jurisdiction in this matter pursuant to 28 U.S.C. § 1332(a), and it may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

10. Pursuant to 28 U.S.C. § 1446(b)(3), this Notice of Removal is filed within thirty (30) days after receipt by Lowe's of Plaintiff's written settlement offer, which is an "other paper" from which Lowe's could first ascertain that the case is one which is or has become removable.

11. Pursuant to 28 U.S.C. § 1441(a), venue of this removal action is proper in the Western District of Virginia, Abingdon Division, because it is in the district and division embracing the place where the state court action is pending.

12. Promptly after the filing of this Notice of Removal, Lowe's will give written notice of the removal to Plaintiff, the adverse party, and will file a copy of this Notice of Removal with the Circuit Court of Tazewell County, as required by 28 U.S.C. § 1446(d).

13. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Lowe's in the state court action have been attached hereto.

WHEREFORE, Lowe's Home Centers, LLC, by counsel, respectfully requests that this action be removed from the Circuit Court of Tazewell County, Virginia, to this Court.

LOWE'S HOME CENTERS, LLC

/s/Joseph M. Moore
Joseph M. Moore (VSB No. 48591)
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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of August, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing to the following:

Terrence Shea Cook (VSB No. 34832)
T. Shea Cook, P.C.
P.O. Box 507
Richlands, VA 24641
(276) 963-4332
(276) 963-6271 Facsimile
Counsel for Plaintiff

And I hereby certify that on this 27th day of August, 2021, I caused a true copy of the foregoing to be sent via U.S. mail to:

Hon. Tammy B. Allison, Clerk
Tazewell Circuit Court
135 Court Street, Suite 202
Tazewell, VA 24651-1071

/s/Joseph M. Moore
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